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John G. Strand  
John C. Shea  
David A. Svanda

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February 5, 1997

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Office of the Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Subject: CC Docket 97-1

To Whom It May Concern:

As authorized by the Michigan Public Service Commission, enclosed herein are the original and eleven copies of its comments in CC Docket 97-1, Ameritech Michigan's Application pursuant to Section 271 of the Telecommunications Act of 1996.

Sincerely,

Dorothy Wideman  
Executive Secretary

**Attachments**

cc: Department of Justice  
ITS, Inc.

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**MICHIGAN PUBLIC SERVICE COMMISSION**  
**Department of Consumer and Industry Services**

**INTEROFFICE COMMUNICATION**

**TO:** Chairman Strand  
Commissioner Shea  
Commissioner Svanda

**DATE:** February 5, 1997

**FROM:** Bruce Maughan, Director *BRM*  
Regulatory Affairs

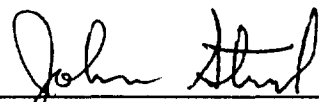
**SUBJECT:** Ameritech Michigan's Section 271 application.

Ameritech Michigan has filed an application with the Federal Communications Commission (FCC) for authority to provide in-region, interLATA service, pursuant to Section 271 of the federal Telecommunications Act of 1996, 47 USC 271. Subsection (d)(2)(B) requires the FCC to consult with this Commission to verify the compliance of Ameritech Michigan with the requirements of subsection (c). To accomplish the consultation required by the Telecommunications Act of 1996, the Regulatory Affairs Division recommends that the Commission adopt the following minute:

Adopt and issue minute dated February 5, 1997, directing the Commission's Executive Secretary to transmit to the Federal Communications Commission the Michigan Public Service Commission's Comments on Ameritech Michigan's Section 271 application, CC Docket No. 97-1.

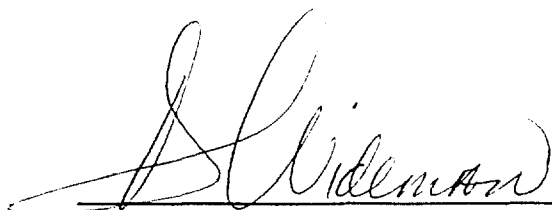
Approved by:


MICHIGAN PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
John G. Strand, Chairman

I would not approve the minute.

  
\_\_\_\_\_  
John C. Shea, Commissioner

  
\_\_\_\_\_  
Dorothy Wideman, Executive Secretary

  
\_\_\_\_\_  
David A. Svanda, Commissioner

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of the Application     )  
of Ameritech Michigan Pursuant to    )  
Section 271 of the Telecommuni-     )  
cations Act of 1996 to Provide In-    )  
Region, InterLATA Services in        )  
Michigan                                 )

CC Docket No. 97-1

COMMENTS OF THE MICHIGAN PUBLIC SERVICE COMMISSION

FEBRUARY 5, 1997

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of the Application     )  
of Ameritech Michigan Pursuant to   )  
Section 271 of the Telecommuni-     )  
cations Act of 1996 to Provide In-   )  
Region, InterLATA Services in       )  
Michigan                                 )

CC Docket No. 97-1

**I. Introduction**

On January 2, 1997, Ameritech Michigan filed with the Federal Communications Commission (FCC) its application to provide in-region, interLATA services in Michigan (Section 271 Application) pursuant to Section 271(d) of the Telecommunications Act of 1996 (the Act). On January 17, 1997 a supplemental filing was submitted by Ameritech Michigan.

Section 271(d)(2)(B) of the Act provides the following:

CONSULTATION WITH STATE COMMISSIONS. - Before making any determination under this subsection, the Commission shall consult with the State commission of any State that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c).

As required by the Act and pursuant to the FCC's February 3, 1997 Revised Public Notice on this matter, the Michigan Public Service Commission (MPSC) herein submits its comments on the subject application.

## **II. Interconnection Requirements Under Track A of the Act**

In order to be granted the authority to provide in-region, interLATA service, a petitioning Bell operating company must, among other things, provide interconnection pursuant to Section 271(c)(1)(A) and have fully implemented the competitive checklist in Subsection (c)(2)(B) (the so-called Track A alternative) or generally offer access and interconnection pursuant to Section 271(c)(1)(B) including the offering of all items included in the competitive checklist in Subsection (c)(2)(B) (the so-called Track B alternative).

Ameritech Michigan has applied under the Track A alternative. Under Track A, Ameritech Michigan must have met the following conditions:

- A. It must have entered into one or more binding interconnection agreements approved under Section 252 of the Act;
- B. The interconnection agreement(s) must specify the terms and conditions under which Ameritech Michigan is providing access and interconnection to its network facilities;
- C. The interconnection agreement(s) must be with competing, unaffiliated providers of telephone exchange service;
- D. The telephone exchange service provided by the competitor must be provided to residential and business subscribers; and
- E. The telephone exchange service provided by the competitor must be offered either exclusively or predominantly over the facilities of the competitor.

Each of the Track A requirements will be discussed separately below, followed by an item-by-item analysis of Ameritech Michigan's offerings in relationship to each separate checklist requirement.

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**A. Status of Interconnection Agreements.**

Ameritech Michigan is a party to ten interconnection agreements filed with the MPSC. Five involved negotiated agreements and five included issues to be arbitrated. In support of its Section 271 Application, Ameritech Michigan included four of the negotiated agreements, three of which have been approved by the MPSC [Brooks Fiber Communications of Michigan, Inc. (Brooks), MFS Intelenet of Michigan, Inc. (MFS), and USN Communications, Inc. (USN)]. As required by the MPSC, copies of the approved interconnection agreements with Brooks and MFS were submitted within ten days of approval<sup>1</sup> and the submitted agreements were signed by both parties. The USN agreement is due to be submitted to the MPSC on February 7, 1997 following its January 28, 1997 approval in Case No. U-11182.<sup>2</sup> The other negotiated agreement included with Ameritech Michigan's Section 271 Application, for WinStar Telecommunications, Inc. (WinStar), is pending.

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<sup>1</sup>The Brooks agreement was approved by the MPSC in compliance with Section 252(e) of the Act in Case No. U-11178 on November 26, 1996. Approval of the MFS agreement followed in Case No. U-11098 on December 20, 1996. The Brooks agreement submitted to the FCC in Volume 1.2 of Ameritech Michigan's Supplemental Filing did not contain all the pages that were copied from the MPSC's official file. Complete copies of the Enhanced 9-1-1 Service Agreement and the Operator Toll and Assist Services Agreement, (which were only included in part in Ameritech Michigan's submission) as well as the entire White Pages Listing and Directory Services Agreement for Grand Rapids and the White Pages Listing and Directory Services Agreement for Holland/Zeeland (which were entirely excluded from Ameritech Michigan's submission) are included herein as Attachment 1.

<sup>2</sup>Attachment 2.



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In support of its Section 271 Application, Ameritech Michigan also included copies of two of the five arbitrated agreements which have been filed with the MPSC: TCG Detroit's (TCG) and AT&T Communications of Michigan, Inc.'s (AT&T).<sup>3</sup> Although the MPSC has acted on the issues to be arbitrated in those two cases, the contracts required to be submitted within ten days of the MPSC orders are either unsigned or disputed. TCG has objected to Ameritech Michigan's filed interconnection agreement in its letter of November 14, 1996.<sup>4</sup> In the case of the AT&T agreement, five versions of that interconnection agreement have now been filed with the MPSC. Four were filed by Ameritech Michigan on December 6, 1996, December 26, 1996, January 16, 1997 and January 29, 1997.<sup>5</sup> AT&T also filed a contract on January 14, 1997.<sup>6</sup> Each party represents that each submitted version of the interconnection agreement complies with the MPSC's order in its arbitration case. The January 29, 1997 version of the interconnection agreement has been signed by both parties.

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<sup>3</sup>The order in TCG's arbitration case was issued on November 1, 1996 in Case No. U-11138. The AT&T arbitration decision followed on November 26, 1996 in Cases Nos. U-11151 and 11152. Copies of these MPSC orders are contained in Volume 1 of Ameritech Michigan's Section 271 Application. A copy of the AT&T/Ameritech Michigan Arbitration Panel Decision is included herein as Attachment 3 since many Panel decisions were upheld by the MPSC and therefore were not discussed in the MPSC order itself.

<sup>4</sup>Attachment 4.

<sup>5</sup>The December 26, 1996 version of the contract was filed with the FCC with Ameritech Michigan's original Section 271 Application on January 2, 1997; the January 16, 1997 version of the contract was filed with the FCC with Ameritech Michigan's revised Section 271 Application on January 17, 1997.

<sup>6</sup>The cover letters submitted with each of these agreements are included as Attachment 5.

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However, disputed language still appears in the rate schedules. Regardless of the representations in the cover letters, no determination has been made by the MPSC as to which, if any, of the contract versions complies with the MPSC order in the AT&T/ Ameritech Michigan arbitration case. In addition, on January 24, 1997, AT&T filed with the U.S. District Court an appeal of the MPSC's November 26, 1996 order in its arbitration case.

The MPSC has also acted in the MCI Telecommunications Corporation (MCI) and Sprint Communications Company, L.P. (Sprint) arbitration cases,<sup>7</sup> but Ameritech Michigan has not relied upon either of these cases in its Section 271 Application to the FCC.<sup>8</sup> The MCI and Sprint contracts are also unsigned to date due to disputes.

In its Section 252(e) actions on negotiated interconnection agreements, the MPSC has applied only the Subsection (2)(A) and (3) criteria. That is, if the proposed agreements were found to be nondiscriminatory, in the public interest, convenience and necessity, and in compliance with State law, they were approved by the MPSC. No determinations were reached regarding provisioning of services required by Section 251 of the Act, compliance with FCC Rules interpreting Section 251 of the Act, or compliance of the prices included in negotiated agreements with Section 252(d) of the Act.

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<sup>7</sup>The MCI arbitration Order was issued on December 29, 1996 in Case No. U-11168. The Sprint arbitration Order was issued on January 15, 1997 in Case No. U-11203. Copies of the Orders are included as Attachment 6.

<sup>8</sup>The other arbitrated case filed with the MPSC by Phone Michigan was withdrawn on January 15, 1997.

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The procedures utilized in arbitration cases before the MPSC were summarized in its July 1996 Order in Case No. U-11134.<sup>9</sup> In that Order, the MPSC adopted so-called baseball arbitration procedures as follows:

Unless the result would be clearly unreasonable or contrary to the public interest, the panel will limit its decision on each issue to selecting the position of one of the parties on that issue.<sup>10</sup>

Therefore, in its application of the Section 251 and 252(d) requirements of the Act as well as the FCC's Rules on these issues, the position adopted was in the MPSC's opinion the one of the two proposals that most closely approximated compliance with those requirements.

It should be noted that the MPSC has applied the requirements of Section 252(e) of the Act to require MPSC action on negotiated agreements within 90 days of the submission of the application and to arbitrated agreements within 9 months of the original request for interconnection from the incumbent provider. In both cases, once an MPSC order has been issued approving a negotiated agreement or acting on disputes in arbitrated cases, the parties are required to submit final agreements, within ten days, that comply with the MPSC order in each case. No further approval by the MPSC of the submitted contract was anticipated. Other than the court action filed by AT&T on January 24, 1997, it is not known whether other court actions will occur. No parties, including Ameritech Michigan, have indicated whether or not appeals will occur. Letters or formal requests for clarification of MPSC

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<sup>9</sup>See Attachment 7.

<sup>10</sup>Attachment 7, pp. 2-3.

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orders have been filed with the MPSC in relationship to the arbitrated cases, however.

Determinations must therefore be made by the MPSC either to clarify its orders in these cases, to adopt negotiated settlements to these issues, or to institute new arbitration proceedings if the issues are new. Such determinations have not been made by the MPSC as of the date of this filing, but the MPSC will notify the FCC of the status of these matters in Reply Comments filed in this case on March 3, 1997.

Finally, it is also interesting to note that although Ameritech Michigan has submitted several interconnection agreements in support of its Section 271 Application, it states that interconnection with competitors to date has occurred pursuant to tariffs rather than to interconnection agreements.<sup>11</sup> To the extent that tariffs and interconnection agreements differ, or to the extent that Section 271 of the Act requires the provisioning of services only pursuant to interconnection agreements, this situation should be noted.

In summary, Ameritech Michigan relies upon six interconnection agreements in its Section 271 Application. The Brooks agreement and the MFS agreement were negotiated, approved by the MPSC, and signed agreements have been filed. The USN negotiated agreement was approved by the MPSC on January 28, 1997, and the agreement is to be

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<sup>11</sup>Ameritech Michigan's December 16, 1996 Submission of Information in Michigan's Case No. U-11104, Attachment B, p. 5. All docketed submissions in Case No. U-11104 as of January 16, 1997 were included in Ameritech Michigan's Section 271 Application to the FCC in Volume 4. Additional submissions now included in that docket as of February 3, 1997 are submitted herein as Attachment 8 with the exception of copies of letters already provided to the FCC by Ameritech Michigan.

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submitted by February 7, 1997. The interconnection requirements of Section 251 of the Act, the pricing requirements of Section 252 of the Act, and the FCC Rules interpreting those sections were not applied to these negotiated agreements. The WinStar interconnection agreement is also a negotiated agreement, but has not as yet been acted on by the MPSC. The AT&T and TCG agreements, which Ameritech Michigan also relies upon, were arbitrated. Only three disputed issues were contained in the TCG case and only one of these involved a pricing dispute (on reciprocal compensation). Numerous disputed issues were acted on in the AT&T case, including the pricing of many services. The copies of the TCG and AT&T agreements submitted to the MPSC are either unsigned or continue to include a few disputed issues.

**B. Ameritech Michigan's Provision of Service Under the Terms of Interconnection Agreements.**

In its Section 271 Application, Ameritech Michigan relies on the arbitrated agreement between itself and AT&T for satisfaction of checklist requirements. However, AT&T is not scheduled by its contract to be interconnected with Ameritech Michigan until the second quarter of 1998. Brooks, MFS, and TCG have already interconnected with Ameritech Michigan. The terms of the interconnection agreements with these three providers, however, are more limited and were almost completely arrived at through negotiation rather than arbitration.

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Because the interconnection services provided by Ameritech Michigan today are offered either pursuant to tariffs or negotiated interconnection agreements (where Section 251 and 252 criteria were not specifically applied), Ameritech Michigan offers in its application that the rates, terms, and conditions available to AT&T, which were established in compliance with the Section 251 and 252 requirements of the Act, are also available to other providers under the most favored nation (MFN) clause of Section 252(i).

Section 252(i) of the Act provides the following:

(i) AVAILABILITY TO OTHER TELECOMMUNICATIONS CARRIERS. - A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

The FCC's Rule interpreting this clause to require the provisioning of any "individual interconnection, service, or network element arrangement contained in any agreement" to any requesting telecommunications carrier<sup>12</sup> has been stayed by the U.S. Court of Appeals.<sup>13</sup> The interpretation of this Section was also disputed in the AT&T/Ameritech Michigan arbitration case. The MPSC found that the proper interpretation of Section 252(i) of the Act was a

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<sup>12</sup>47 C.F.R. 51.809.

<sup>13</sup>Iowa Utilities Board v Federal Communications Comm, decided October 15, 1996 (CA 8, Docket No. 96-3321 et al.).

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major issue that did not need to be addressed at this time and therefore no clause addressing this issue is now included in the AT&T/Ameritech Michigan agreement.<sup>14</sup>

The MFN provisions of the Brooks, MFS, and TCG agreements are contained in Sections 28.15, 28.14, and 29.13, respectively, of their interconnection agreements. These sections permit these providers to avail themselves of either another agreement in its entirety or the prices, terms, and conditions of other agreements or tariffs that directly relate to specific contract sections as a whole. The contract sections available for substitution differ in each of the three contracts, but all three include, for example, interconnection, resale, and unbundled access. Because loops, ports, and local transport are all included in the unbundled access section of Brooks' interconnection agreement, Brooks may only be permitted to incorporate another provider's rates, terms, and conditions for unbundled ports if it also adopts that provider's rates, terms, and conditions for all other unbundled components included in that provider's contract. General item-by-item adoption of provisions in another's contract does not appear to be permitted by the terms of the Brooks, MFS, or TCG agreements as written. This understanding is important in reviewing checklist compliance.

In addition, as discussed above, the MPSC has only applied the Section 252(d) pricing standards in interconnection agreements where prices for particular services were in dispute and arbitration had been requested. Of the agreements submitted by Ameritech Michigan in

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<sup>14</sup>MPSC's November 26, 1996 Order in Cases No. U-11151 and 11152, p. 13. A copy of this Order is included in Volume 1.1 of Ameritech Michigan's Section 271 Application with the AT&T interconnection agreement.

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support of its Section 271 Application, only the reciprocal compensation rate was arbitrated in the TCG case. Numerous prices were arbitrated in the AT&T case. Because Ameritech Michigan discusses pricing determinations at some length in its Section 271 Application,<sup>15</sup> a few comments on this matter are appropriate.

First, in the arbitration proceedings before the MPSC, the pricing requirements of the Act and the pricing requirements of state law<sup>16</sup> were found to be compatible and nearly identical. As provided in the MPSC's arbitration decision in the AT&T case, a number of rates initially adopted on November 26, 1996 were replaced with new rates on December 12, 1996 based on Ameritech Michigan's reformulated cost studies.<sup>17</sup> Also in compliance with the MPSC's arbitration order, rates will again be changed at the conclusion of a proceeding initiated by the MPSC to comprehensively review all of Ameritech Michigan's prices, including the interconnection prices presently in effect.<sup>18</sup> This proceeding is scheduled to conclude in June 1997.

Second, it should be noted that prices for certain interconnection services were not established in the AT&T arbitration proceeding at all because alternative proposals were not

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<sup>15</sup>Ameritech Michigan's Section 271 Application, Volume 2.7, Affidavit of William C. Palmer.

<sup>16</sup>See Attachment 9, the Michigan Telecommunications Act, MCL 484.2101 et seq.

<sup>17</sup>Attachment 10, December 12, 1996 MPSC Order in Cases Nos. U-11155 and 11156.

<sup>18</sup>Attachment 11, December 12, 1996 MPSC Order in Cases Nos. U-11280, 11281, and 11224.



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submitted and requests for arbitration on these matters did not exist. This is the case, for example, in regard to certain non-basic types of unbundled loops and ports, 9-1-1 services, and billing and collection prices. Consistent with the Act, the MPSC only addressed issues raised by the parties.

Third, Ameritech Michigan suggests in its Section 271 Application that certain rates established by the MPSC as complying with the Act and applicable state law be unilaterally changed in the interconnection agreement because it believes a different costing methodology may be appropriate.<sup>19</sup> The MPSC cautions that even negotiated agreements must be approved by the MPSC as required by the Act, and compliance with state law will have to be assured.

Fourth, as discussed below in regard to poles, ducts, conduits, and rights-of-way, state law was defined to be the ruling statute on this issue in the MPSC's AT&T arbitration decision, although Ameritech Michigan refers only to the requirements of the Act in Mr. Palmer's pricing affidavit.<sup>20</sup>

Finally, it should be noted that interconnection rates established by the MPSC in its arbitration decisions were determined to comply with the applicable sections of the Act and state law. Although initial prices were deemed to be interim in nature, the MPSC rejects the

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<sup>19</sup>Ameritech Michigan's Section 271 Application, Affidavit of William C. Palmer, pp. 8-9 regarding rates for dedicated and shared transmission, collocation, signaling, and call-related databases.

<sup>20</sup>Ameritech Michigan's Section 271 Application, Affidavit of William Palmer, p. 10-11.

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contentions of those who believe that interim rates may not be utilized to satisfy the requirements of the Act.<sup>21</sup> Existing rates are always subject to review. Revision to any service price is commonplace and a characteristic of the marketplace. The interim rates established in the arbitration proceedings comply with the requirements of the Act and applicable state law.

**C. Interconnection Agreements Are with Competing, Unaffiliated Providers.**

Since October 1994, the MPSC has granted competing licenses pursuant to state law to provide local exchange services to sixteen providers (including one to Ameritech Michigan Communications Inc., an Ameritech subsidiary that will compete with Ameritech Michigan and GTE). Only four of those providers (Brooks, MCI, MFS, and TCG) have filed local tariffs, however. All four of these and five others (AT&T, Sprint, USN, WinStar, and AirTouch Cellular, Inc.) have been parties to interconnection agreements filed with the MPSC for approval or arbitration. The six interconnection agreements filed by Ameritech Michigan in support of its Section 271 Application are with providers licensed by the MPSC to compete with Ameritech Michigan for basic local exchange service. Two of these, AT&T and WinStar, have not as yet filed local tariffs that would enable them to begin to provide service in the state. Interconnection agreements do exist between Ameritech Michigan and

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<sup>21</sup>MCI's, AT&T's, and TCG's January 9, 1997 Comments in Case No. U-11104, p. 9, p. 5, pp. 3-5, respectively.

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competing, unaffiliated providers and several of these providers (Brooks, TCG, MFS, and MCI) are actually providing local service in Michigan today pursuant to their own local service tariffs.

**D. Competitor(s) Serve Residential and Business Subscribers.**

Ameritech Michigan represents that Brooks serves 8,533 business lines and 3,621 residential lines.<sup>22</sup> Brooks has not disputed this claim. Although Ameritech Michigan was unsure of whether MCI, MFS, or TCG serve residential customers, MCI and MFS have indicated they do not.<sup>23</sup> TCG has not indicated whether it serves residential customers in Michigan. Therefore, Brooks may be the only competitor providing competitive local exchange service to both business and residential customers in Michigan at the present time.

**E. Provision of Local Service over Competitor's Facilities.**

Ameritech Michigan indicates that Brooks, MCI, MFS, and TCG are presently providing local service in competition with Ameritech Michigan. Ameritech Michigan estimates that in September 1996 between 15,000 and 20,000 access lines were served by competitors. This can be compared to the 4,972,505 access lines served by Ameritech

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<sup>22</sup>Ameritech Michigan's November 12, 1996 Submission of Information in Case No. U-11104, Attachment A, p. 2.

<sup>23</sup>MCI's December 4, 1996 Comments and MFS's January 14, 1997 Comments in Case No. U-11104.

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Michigan.<sup>24</sup> The Act does not require that any particular portion of the state's total access lines be served by competitors in order for Ameritech Michigan to qualify for interLATA relief. There is no market test in the Act.

Neither the Act nor the FCC's Rules define how the phrase "predominantly over their own facilities" as used in Section 271(c)(1)(A) of the Act is to be defined. One alternative may be to attempt to determine the value of a competitor's own investment utilized in the provisioning of its local service compared to the cost of services resold in the provisioning of its local service. MFS appears to suggest in comments filed with the MPSC that if the total number of access lines served by a provider through resold services exceeds the number served without resold services, the "predominantly over its own facilities" test has not been met.<sup>25</sup> Ameritech Michigan believes this is inappropriate because "this resale service is a far smaller part than the local service offered over MFS's own telephone exchange facilities."<sup>26</sup> Additionally, questions have been raised as to whether the provision of service through Ameritech Michigan's unbundled loop comprises facilities-based service or resale.

No information has been presented to the MPSC which would permit it to quantify the worth of each competitor's facilities compared to the worth of the resale facilities it uses in the provisioning of its services. The "Joint Explanatory Statement of the Committee of

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<sup>24</sup>Ameritech Michigan's November 12, 1996 Submission of Information in Case No. U-11104, Attachment A, pp. 14 and 23.

<sup>25</sup>MFS's January 14, 1997 Comments in Case No. U-11104.

<sup>26</sup>Ameritech Michigan's Brief in Support of its Section 271 Application, p. 15.

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Conference," which accompanied the enactment of the Telecommunications Act of 1996, indicates that the facilities-based provider section of the Act was meant to ensure that "a competitor offering service exclusively through the resale of the [Bell operating company's] telephone exchange service does not qualify" for satisfaction of the Section 271(c)(1)(A), Track A requirement.<sup>27</sup> Other portions of the Act which refer to resale describe services as those "the carrier provides at retail to subscribers who are not telecommunications carriers."<sup>28</sup> These concepts, in concert, limit resale to the BOC's retail services.

A reasonable interpretation of the Act is that use of unbundled loops or ports would not constitute resale within the meaning of Section 271(c)(1)(A). Since TCG and Brooks are not serving customers through the resale of Ameritech's retail service, they would qualify as facilities-based providers.

However, even if the use of unbundled loops or ports were to be considered as resale, that would still lead to the conclusion that the competitors are facilities-based or predominantly facilities-based because of the extent to which Brooks, MCI, and TCG utilize their own facilities in the provision of local exchange service.

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<sup>27</sup>See Conference agreement discussion of Section 271(c). Emphasis added.

<sup>28</sup>Section 251(c)(4)(A) of the Act.

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Specifically, MFS, TCG, MCI, and Brooks all own facilities in Michigan, including switches.<sup>29</sup> MCI has indicated that it is providing service to customers in the Detroit area over its own facilities and that currently it does not rely upon either Ameritech Michigan's unbundled loops or resale to provide its service.<sup>30</sup> As discussed earlier, however, MCI's interconnection agreement was not relied upon by Ameritech Michigan in its Section 271 Application. MFS indicates that "it provisions a majority of its total lines via resold Ameritech Michigan services and therefore cannot be characterized as predominantly facilities-based." It indicates that "it provisions 222 access lines exclusively through its own facilities" and that it resells 6,685 Ameritech Centrex lines, 8 Ameritech Network Access Lines, and 818 Ameritech unbundled loops."<sup>31</sup> Ameritech Michigan represents that TCG provides its service exclusively over its own telephone exchange service facilities.<sup>32</sup> TCG confirms that it does not purchase unbundled loops; it does not indicate whether it resells any Ameritech Michigan services.<sup>33</sup> Approximately one-third of Brooks' customers are served over Brooks provided loops. The remaining two-thirds are served through the purchase of

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<sup>29</sup>Ameritech Michigan's November 12, 1996 Submission of Information in Case No. U-11104, Attachment A, Table 6.a.1. See also MCI's December 4, 1996 Comments in Case No. U-11104, p. 5, in which it indicates that MCI also owns a switch in Detroit.

<sup>30</sup>MCI's December 4, 1996 Comments in Case No. U-11104, pp. 4 and 6.

<sup>31</sup>MFS's January 14, 1997 Comments in Case No. U-11104, p. 2.

<sup>32</sup>Ameritech Michigan's Brief in Support of its Section 271 Application, p. 15.

<sup>33</sup>TCG's January 9, 1997 Comments in Case No. U-11104, Attachment A, Affidavit of Michael Pelletier.

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unbundled loop facilities from Ameritech Michigan.<sup>34</sup> Brooks is not serving any of its customers through the resale of Ameritech Michigan's retail service.

Thus, Brooks and TCG are providing basic local exchange service predominantly over their own facilities.

### **III. Checklist Requirements**

Under Section 271(c)(2), access and interconnection provided by Ameritech Michigan under Track A must comply with each of the fourteen checklist requirements delineated in the Act. Each item will be discussed separately below.

**A. Checklist Item (i)**  
**Interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).**

It appears, based upon information submitted, that Ameritech Michigan complies with the requirements of this item of the checklist.

According to signed agreements, interconnection has occurred with Brooks at one tandem and three end offices in the Grand Rapids LATA and with MFS at one tandem in the Detroit LATA. An unsigned interconnection agreement also specifies that interconnection is complete with TCG at three tandems in the Detroit LATA.

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<sup>34</sup>Ameritech Michigan's November 12, 1996 Submission of Information in Case No. U-11104, Attachment A, p. 12.

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The Brooks agreement provides for interconnection through fiber-meet, collocation, tariff arrangement, and tie-cable arrangements (the latter in two wire centers only). The MFS agreement provides for interconnection through fiber-meet and collocation. The TCG agreement provides for interconnection through fiber-meet, collocation, and other types of interconnection provided by the Act. Ameritech Michigan indicates it is also interconnected with MCI, although the interconnection agreement with that provider has not been submitted as supporting documentation with Ameritech Michigan's Section 271 Application.

In its December 16, 1996 filing with the MPSC in Case No. U-11104, Ameritech Michigan says that Brooks, MFS, TCG, and MCI have interconnected using the Ameritech Interim Interconnection Arrangements (AIIA) contained in Part 21, Section 2 of Ameritech Michigan's tariff.<sup>35</sup> This latter tariff was established in compliance with a February 1995 MPSC order in the original City Signal interconnection case, Case No. U-10647. It is unclear why Brooks, MFS, and TCG are interconnecting pursuant to tariff rather than their interconnection agreements.

Ameritech Michigan represents that 9,250 interconnected trunk lines of competitors are now in service and that competitors are collocated in 21 Ameritech Michigan wire centers.<sup>36</sup>

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<sup>35</sup>Ameritech Michigan's December 16, 1996 Submission of Information in Case No. U-11104, Attachment B, p. 5.

<sup>36</sup>Ameritech Michigan's Brief in Support of its Section 271 Application, p. 29.



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Section 251 requirements and the FCC's Rules interpreting those requirements were not applied by the MPSC to the Brooks and MFS interconnection agreements because these agreements were negotiated. In addition, because these portions of the TCG agreement were not disputed, those requirements and Rules were not applied to the interconnection and collocation portions of the TCG agreement either. Section 251 requirements and the related FCC Rules were applied to the interconnection and collocation portions of the AT&T agreement. However, AT&T is not scheduled for interconnection under its agreement until the second quarter of 1998. Subject to the discussion above regarding the MFN clauses of the Brooks, MFS, and TCG agreements, the interconnection and collocation provisions of AT&T's agreement, which were reviewed in accordance with Sections 251(c)(2), may be available to Brooks, MFS, and TCG.

Section 252(d)(1) pricing requirements were not applied to the interconnection and collocation prices included in the Brooks, MFS, and TCG agreements because the Brooks and MFS agreements were negotiated and the interconnection and collocation prices in the arbitrated TCG agreement were not disputed. The Section 252(d)(1) pricing criteria were applied by the MPSC in the AT&T arbitration where FCC collocation prices were adopted. Because the collocation prices included in the Brooks, TCG, and MFS agreements are the tariff prices ultimately adopted by arbitration in the AT&T agreement, Section 252(d)(1) criteria have indirectly been met in the Brooks, TCG, and MFS agreements as well.